S.B. CIVIL WRIT PETITION NO.4720/2002

Heera Lal Vs. State of Raj. & ors.

Date : 6.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sajjan Singh, for the petitioner.
Mr. Rameshwar Dave, Dy.GA, for respondents no.1 and 2.
Mr. Suresh Srimali, for respondent no.3.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 8.8.2002 by which the Board of Revenue dismissed the revision petition filed by the petitioner against the order dated 20.2.2001 whereby the trial court rejected the application filed by the petitioner under Order 6 Rule 17 C.P.C.

According to learned counsel for the petitioner, the petitioner filed a suit for injunction seeking injunction that no revenue entry be changed on the basis of will which is alleged to have been executed by Dhapu Bai. According to learned counsel for the petitioner, the revenue entry was changed during the pendency of the suit and the entire land, which was recorded in the name of petitioner and Dhapu Bai, has been recorded in the name of Rambha Bai who is claiming the will in her favour from Dhapu Bai. Hence,

according to learned counsel for the petitioner, the petitioner submitted application for amendment of the plaint and the amendment has been sought on the basis of subsequent event.

I have perused the plaint and amendment application as well as the orders passed by the two courts below.

It appears from the facts mentioned in the amendment application itself that the petitioner by this application wants to change the entire nature of suit. The claim of the petitioner was on the basis of entry in the revenue record in the name of the petitioner as well as of Dhapu Bai and the petitioner challenged the validity of the will and right of Dhapu Bai to bequeath the property by will whereas by this amendment application, the petitioner wants to incorporate the old facts relating to devolution of interest of predecessor of the petitioner and defendant and wants to claim entirely different relief on different facts.

In view of the above, I do not find any illegality in the orders of the courts below.

Accordingly, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya